demurrer to the information in *State v. Johnson.*[9] After all there is a difference between animals, which are the property of the people of the state, and a book in the state library, belonging also to the people of the state.

T. A. J. D.

DEDICATION: PARKS: CHANGE OF USE.—A property owner fronting on a street opposite a municipal park seeks to enjoin the Board of Park Commissioners, from erecting in the park a garage for automobiles and auto trucks to be used by members of the park board and their employees in caring for the public parks of the city. The Supreme Court of Oregon, in *Wessinger v. Mische,*[1] holds in the complainant's favor.

Such a structure may amount to one or more of the following: (1) a mere purpresture, (2) a violation of abutters' rights, or (3) a public nuisance. To prevent a mere purpresture, only the fee owner, the trustee, or the public, by its authorized representative, the state, may sue.[2] When the purpresture works an injury to an adjoining property owner, an injury peculiar to him as owner of that particular parcel of property, then such property owner may enjoin its erection or maintenance. When the purpresture amounts to a public nuisance, the public, by its authorized representative, the state, may sue for its abatement. But it is not necessary to show a public nuisance before the property owner can maintain his suit.[3] By the dedication, the public as an indeterminate body, represented not by the city, park board, or county, but by the state, has acquired a right to have that land devoted to park uses. In an analogous manner, the abutting property owner gains a similar right, as a sort of easement to his land, and before he should be allowed to prevail, he must show, not only a violation of the public right (a purpresture) but he must also show a special injury to himself, apart from the public. Whether this amounts to a public nuisance or not is immaterial to his suit.

Where the threatened injury is clearly authorized by the legislature a difficult and unsettled question is raised, as to the extent of the powers of that body to alter or terminate the park, as against abutters.[4] But confining the question to cases where the legislature allows the public easement in the park to remain intact, and eliminating cases where a distinction is made between public parks and public squares, such specific cases as the one in question are in general not difficult of solution.

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[9] (July 22, 1914), 141 Pac. 1040.

[1] (Ore., June 30, 1914), 142 Pac. 612.

[2] Trustees M. E. Church v. Hoboken (1868), 19 N. J. Eq. 355, and (1868), 33 N. J. Law 13; People v. Park and Ocean R. R. Co. (1888), 76 Cal. 156, 18 Pac. 141; 8 Harv. Law Rev. 234; 12 Harv. Law Rev. 145.

[3] Fessler v. Town of Union (1903), 67 N. J. Eq. 14, 56 Atl. 272, affirmed in Town of Union v. Fessler, 68 N. J. Eq. 657, 60 Atl. 1134.

[4] 3 Dillon, Mun. Corp., 5th ed., 1759.

Broadly speaking, park uses are those which promote popular enjoyment and recreation. Public comfort, convenience, and pleasure, with due regard for the aesthetic, are the most general characteristics of park uses. Clearly, public administration buildings, public schools, and all private uses, are not park uses. But a free library and out buildings,[5] monuments,[6] a racetrack (leased to private parties for upkeep and partial public use),[7] a hotel and restaurant,[8] and a park superintendent's dwelling,[9] have been held to be park uses. On the other hand, streets,[10] public highways, a high boundary wall obstructing view of abutting owners,[11] public school buildings, [12] county court house, [13] town hall, [14] city hall with jail in basement,[15] church,[16] fire-bell tower,[17] cemetery[18] and military barracks or hospitals[19] are held not to be park uses. The court in the principal case intimates that the public may properly be excluded from a portion of the park, as from a power house, for the purpose of promoting the enjoyment of the rest of park; but the mere convenience of the park administration is not sufficiently important to justify the erection of a garage such as the one in question.

O. F. M.

EMINENT DOMAIN: UNITY OF PROPERTY: EFFECT OF SEPARATION OF DIFFERENT PARCELS OF LAND BY A PUBLIC HIGHWAY.—In the case of *City of Oakland v. Pacific Coast Lumber and Mill Company*,[1] it was decided that lands separated by a public street may be considered as a whole in assessing damages in eminent domain, if the parcels are used for the same purpose, the use here being that of a milling plant, i. e., a planing mill and lumber

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[5] Spires v. Los Angeles (1906), 150 Cal. 64, 87 Pac. 1026; Atty. Gen'l v. Sunderland (1875), L. R. 2 Ch. Div. 634.

[6] Parsons v. Van Wyck (1900), 56 App. Div 329, 67 N. Y. Sup. 1054; Hoyt v. Gleason (1892), 65 Fed. 685; Hartford v. Maslen (1904), 76 Conn. 599, 57 Atl. 740.

[7] Bryant v. Logan (1904), 56 W. Va. 141, 49 S. E. 21.

[8] Gushee v. City of N. Y. (1899), 26 Misc. Rep. 287, 56 N. Y. Sup. 1002, affirmed in 42 App. Div. 37, 58 N. Y Sup. 967.

[9] State ex rel. v. Brown (1910), 111 Minn. 80, 126 N. W. 408.

[10] Price v. Thompson (1871), 48 Mo. 361; Pickett v. Town of Mercer (1904), 106 Mo. App. 689, 80 S. W. 285; Mulvey v. Wangenheim (1913), 23 Cal. App. 268, 137 Pac. 1106.

[11] Wheeler v. Bedford (1886), 54 Conn. 244, 7 Atl. 22.

[12] Rowzee v. Pierce (1898), 75 Miss. 846, 23 So. 307; but see Reid v. Edina Bd. of Education (1880), 73 Mo. 295.

[13] McIntyre v. Bd. of Com'rs (1900), 15 Colo. App. 78, 61 Pac. 237.

[14] Princeville v. Auten (1875), 77 Ill. 325.

[15] Church v. Portland (1889), 18 Ore. 73, 22 Pac. 528.

[16] Trustees M. E. Church v. Hoboken, supra, note 2.

[17] Town of Union v. Fessler, supra, note 3.

[18] Comm. v. Alburger (1836), 1 Whart. 469.

[19] Appeal of Meigs (1869), 62 Pa. (12 P. F. Smith) 28, 1 Am. Rep. 372.

[1] (July 28, 1914), 19 Cal. App. Dec. 177. Rehearing granted by Supreme Court, Sept. 26, 1914.